

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN MACK COLE**, on March 9, 1999 at 10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Keri Burkhardt, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 173, 2/22/1999,
HB 349, HB 494, HB 625,
2/23/1999
Executive Action: HB 173, HB 349, HB 494

HEARING ON HB 625

Sponsor: SEN. PEGGY BERGSAGEL, HD 20, BILLINGS

Proponents: Sharon Hoff, Montana Catholic Conference
Arlette Randash, Eagle Forum
Laurie Koutnik, Executive Director, Christian Coalition of Montana

Opponents: None

Informational: Chuck Hunter, Department of Health and Human Services

Joe Lamson, Office of Public Instruction

Christine Kaufman, Human Rights

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 10 - 22}

SEN. PEGGY BERGSAGEL, HD 20, BILLINGS, said this bill puts in place a family impact statement. It is essentially a review of all agencies and governments to ask what they would do to impact the family. The idea for the bill came from an Executive Order signed in September 1987. In 1985 the Undersecretary from the Department of Education was asked to conduct a year-long study of what government and its role did in helping or hurting families. As a result of that study, Executive Order was put in place. It was carefully designed to protect families from bureaucrats and politicians. This family policy was in effect for an entire decade, limiting the activities of Reagan, Bush, and Clinton. Unnecessary and restrictive regulations were eliminated. The format of this bill was taken from that Executive Order.

I attended a legislative conference where there was a representative from Florida who said they have a similar system. I asked David Lewis to do some research on this because it was put on as something the Governor would like to do. This is a bill from Florida **EXHIBIT(sts53a01)** and the bill research **EXHIBIT(sts53a02)**, and the Montana Family Policy Act **EXHIBIT(sts53a03)**. Their format is slightly different than the Fiscal Notes we might have on a bill. When we present bills, we know the potential Fiscal Impact and we are provided with a Fiscal Note. When we plan to make changes in the environment, we have an environmental impact statement. We cannot act until we have made sure there is well-being for animals. We have repairing areas. We do that to protect our environment and we should at least be this cautious when we approach the family. We can ask for economic impact statements. It is not done often, but it is in statute and this statute is taken from the economic impact statement.

It's time we are able to ask for support for the families. The family is the foundation of our society. If you look at the Family Policy Act which is 41-7-101, the leading paragraph says, "it is the policy of the State of Montana to support and preserve the family as the single most powerful influence for insuring the health, social development, mental and physical well-being in

Montana's children". This is the Montana Family Policy Act currently in place.

This bill will allow for an impact statement to be requested by a legislator when a bill is being presented. If we value the family as the foundation of our society, we must recognize it is facing great problems. There are high divorces rates, the Health and Human Services is over a billion dollars, the birthrate of unwed mothers in Yellowstone has moved from 15 percent to 30 percent in the last ten years. We must review the policies we are making.

Take a look at an article in the Missoulian about young mothers. Although the birthrate to teen mothers as a whole is down, in the past 6 years there has been a 14 percent increase to unwed teen mothers. Are we creating policies in State Government as we pass our legislation that increases this sort of thing? That is what I am hoping the family impact statement would help. I have visited with Chuck Hunter, head of the Child and Family Division, and reviewed this. He said some of the questions in here, although they are taken almost directly from what was on the Executive Order, are slightly subjective. When you get a Fiscal Note and you don't agree with it, you can refuse to sign it or make some suggestions down at the Budget Office and have it reviewed.

Proponents' Testimony:

Sharon Hoff, Montana Catholic Conference, said, I represent the two Catholic Bishops in the State of Montana. I would like to quote some material from the United States Catholic Bishop's doctrine about putting children and families first. "There has been an unfortunate, unnecessary, and unreal polarization of discussion of the best way to help families. Some emphasize the primary role of moral values and personal responsibility, the sacrifices to be made, and the personal behaviors to be avoided, but they often ignore or de-emphasize the broader forces which hurt families, the impact of economics, discrimination, and anti-family policies. Others emphasize the social and economic forces that undermine families and the responsibilities of government to meet human needs, but they often neglect the importance of basic values and personal responsibility. The undeniable fact is that our children's future is shaped both by the values of their parents and the policies of our nation and our state. Families are undermined by parental irresponsibility, discrimination and poverty. Children's lives are enriched by their parents sacrifices and by economic policies that help mothers and fathers meet the demands of parenthood".

It's time to move beyond rigid demands and political posturing to focus on the real needs of families. We have some criteria we use in determining what kinds of family policies we see as important, and we think this bill would be a good piece of legislation to encourage some of these policies to happen. The first one of our criteria is to put children and family first. For every policy and program, whether a church, state, or city program, what is the impact on children and their families? Our laws should help and not hurt. Often we create legislation and laws that don't help the family. They fracture and separate instead of supporting and sustaining families. Those with the greatest needs need the greatest response.

We need to empower families. Families are incredibly resilient. They can do all kinds of things when the state doesn't impose rigid rules and regulations on family life. We need to fight economic and social forces which threaten children and families, to build on those strengths, and to call for responsibility within families and also within government. This is a good piece of legislation.

Arlette Randash, Eagle Forum, said Fiscal Notes are made with the best efforts to predict how proposed legislation will effect the state's budget. Many times you would be in a quandary of how to vote if you didn't have the ability to draw on those impact statements. My husband wishes there were impact statements from the point of view of small business. Impact statements made from the point of view of the family makes sense. Consider how what appeared to be a mere incentive to let farmers let farm land lie idle has decimated small rural communities. Farm equipment and parts were no longer needed, nor were hired hands. Therefore, families moved away, and when that happened school enrollment declined and main street businesses were impacted. In retrospect, would a different decision have been made in farm policy had the legislators or Congressional people known that was going to happen.

Family life has also been destabilized by legalized gambling. Most of all, I would like you to consider no-fault divorce. What family disruption might have been averted had a serious attempt been made to forewarn legislators of the impact on families if spouses were allowed to walk away with no-fault from lifetime commitments. Family is the most important institution in our culture.

Today an ever increasing number no longer live with one or both parents and "latch key" children are now the norm. This bill will not solve every problem, but it will raise the awareness of the role families play and the impact legislation has on them. Pope John Paul the 2nd reiterated his feelings about the family.

He reminded us it would be important, not only to keep that forefront in our mind, but in statutory recognition when he said,

"we must bring a fuller appreciation of the family as the primary and most vital foundation of society, the first school of social virtue and solidarity. As the family goes, so goes the nation". Please support this bill.

{Tape : 1; Side : A; Approx. Time Counter : 22 - 35}

Laurie Koutnik, Executive Director, Christian Coalition of Montana, stated we are our state's largest family advocacy organization. We represent 30 thousand households of Montanans and it is my pleasure to rise in support of this bill. As a wife and mother of three and a former foster parent of 55 children for the State of Montana, I know first hand the concerns families face day in and day out. They are the most fundamental of society's building blocks. The family is the most basic Department of Public Health, Welfare, Safety, Education, and Labor ever created. The test for any civilization's well-being or survival has always been, "how the family goes, so goes society". Families are our future.

A great deal has been said and written about the state of families in America. In this country, the family is in great peril. A few years ago, Dr. William Bennett, who was the head of the United States Department of Education under the Reagan Administration, released a report entitled, "The Index of Leading Cultural Indicators," published by the Heritage Foundation and Power America. It was an attempt to bring empirical analysis or list key indicators to provide assessments of the overall condition of American society. While the United States enjoys the strongest economy in the world over the last 30 year period, there has also been, quoted from his findings, "a 560 percent increase in violent crime, more than a 400 percent increase in illegitimate births, a quadrupling in divorce rates, a tripling of the percentage of children living in single parent homes, more than a 200 percent increase in teen suicides, and a drop of almost 80 points in the SAT scores".

Modern pathologies have become worse. The family tax rate has risen from 4 percent of income in the 1950's to 12 percent in the 60's, to 16 percent in the 70's, to 24 percent in the 80's, and even higher into the 90's. Montanans fare no better. We tend to be in the top percentages in taxes paid in this country and we are 51st, last, in wage earnings, which presents unique challenges for families trying to see that food is on the table and a roof is over their heads. Increased employment statistics

show that in Montana, not only are both parents working, but sometimes working two or three jobs just to provide the necessities of clothing, let alone pay the tax bill. They work more creative jobs in order to provide the necessities, to say nothing of such extras as braces or music lessons. All this means less time parents spend with their children.

It is well recognized while divorce often leads to dependency on government programs and increased government spending, the converse is also true. Marriage is the leading cause of people coming off assistance programs. This is a financial benefit to government on every level and we do well to support and encourage family unities. We have before us an opportunity to recognize, up front, the decisions of government and the law will impact the family for the better or to its detriment. Government should heed the old injunction, "do no harm." Over the years, unintended harm has come to many people. We have tried to help families among them.

Before any legislation or social policy is passed, Dr. Bennett suggests we should ask these questions: what kind of behavior will this legislation encourage or discourage, will this legislation support or undermine families, will it encourage individual responsibility or dependency, will it provide effective assistance for those in need, or will assistance be diverted to massive bureaucracies, and is this the kind of activity the government should be involved in? That is the heart of the family impact statements. The safety and security of families should never become subservient to political agendas.

Ideology is a cold parent and government is not always loving and compassionate. Therefore, we look for ways to ensure and protect. Just as injuries to families are often self-inflicted, so too, they can be self-corrective. This bill is about stating up-front how many measures will affect families. The ten points listed in Section 4 of this bill get to the very heart of addressing these basic concerns. Section 5 places the responsibility of preparing the impact statement with the Executive Branch Department they charge with this specific oversight. Section 6 speaks to the economic impact requests.

Over the past few years, through Congressional policy, we have established family friendly workplaces, the Family Leave Act, tax credits for child care, increase in dependent deductions, but we still have a ways to go. This is a win-win piece that is long overdue. Send a message that families matter in Montana. Please support **HB 625**. I would like to share that the Governor's Office supports this bill and Mary Joe Fox testified in support of this legislation during the House hearing. She was unable to be here to testify today.

Informational Testimony:

Chuck Hunter, Department of Health and Human Services, Department of Public Health, said I am here to talk about what we originally had as fears of this legislation. We read the statements to be filled out and reported on about the impact on families. We were a little concerned about not knowing how to answer those questions. As you read through them, there is some ability to read them in subjective ways. We are not sure how we will answer some of the questions, but as we thought about the questions and the intent of the bill, we couldn't really come up with any better questions than were listed here. Given the fact that even Fiscal Notes are somewhat subjective, we are finally to the place where we think this is probably a good piece of legislation and we would like to try it for a couple of years.

Joe Lamson, Office of Public Instruction, stated I am speaking on behalf of the Superintendent of Public Instruction, Nancy Keenan. We are not quite as comfortable with the subjectivity of some aspects of this piece of legislation. The bill talks about the "average family". The average family in 1990 is very different from the average family in 1960. For instance, I am a parent of three boys and the last one is in high school, so the notion of what our family needs is very different than what it was just ten years ago, when I was more concerned about child care. Several examples were given by the proponents they thought were detrimental to families, for instance, the issue of no-fault divorce. I think overwhelmingly in Montana, if you ask people about that particular question, they would have a very different view about whether or not no fault divorce strengthens or weakens a family and whether you are putting people in situations that are very detrimental to a particular family.

Our major concern is when many issues are being looked at. For instance, minimum wage is an issue that has divided this legislature and people on both sides of that issue are claiming to be pro-family. The role of the legislature is to decide, rather than putting this over in bureaucracy. There is a fundamental difference between Fiscal Impact statements and environmental impact statements. I won't deny there is subjectivity involved. But when you are laying out your reasons for making your conclusions, you can usually quantify them in terms of scientific evidence or in terms of economic assumptions.

This bill creates a lot of problems legislators are going to be turning over to agencies under the notion this is going to become an objective analysis. In fact, it is going to be put back to the legislators and they will have to weigh the pros and cons. Those are the points we would like to raise in that the impact statements will be written by agencies looking at it from their points of view. Thank you.

Christine Kaufman, Human Rights, stated, I would like to point out for a while we were confused about whether to support or oppose this bill, because depending on who's writing those impact statements, it could give us a great deal of information on minority families, gay and lesbian families, etc. The word "families" is not defined anywhere in the bill and I am sure some of us have an idea of what "family" means, but depending on who in a government agency is thinking about the impact on families, it could include a broad range of family kinds of relationships.

There are many bills that would have the exact opposite effect on one kind of family than it would on another kind of family. For example, to abolish the death penalty has one impact on families of victims, while it has an opposite impact on the family of the person on death row. Those things would make it very confusing to write a family impact note that is really meaningful. I stand up as an informational witness to add those points for your consideration.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 35 - 51}

SEN. WELLS said we heard families are not defined in the bill. Are families defined anywhere in the statutes that we could use in reference to this? **REP. BERGSAGEL** replied, I am not aware of that. I am aware the Montana Family Policy Act does not define families either. I am sure it is somewhere. **SEN. WELLS** referred the question to **Laurie Koutnik**. **Laurie Koutnik** explained I did some research on family and the definition of family a few years ago. The definition most recognized by law is the definition of being related either through blood, by adoption, or by marriage.

SEN. WELLS stated there were many comments made, particularly from the informational witnesses who talked about the "norm". How do you view the definition of "norm" versus good and bad? It has an impact on what the intent of this bill would do. **REP. BERGSAGEL** answered the norms of society are used in several different places in statute. The average family is listed on Page 3, Line 4. If you choose to strike the average family, that

is the only place in the bill I know it is found, or strike the "norms of society".

SEN. WELLS stated the Fiscal Note says there is no impact, but it is hard for me to think we could have these statements prepared without some sort of effort. Do you think it would not have a great Fiscal Impact because there are staff people there to do economic and other environmental impacts? **REP. BERGSAGEL** said I was delighted to see that Fiscal Note. It was written by our Budget Director and his view was we had agencies already involved when Fiscal Notes are written. It does add to the workload, but it does not have a significant impact. I think it can come through with a relatively minor Fiscal Impact.

SEN. HARGROVE asked, is it necessary to modify the Joint Rules to make this happen? **REP. BERGSAGEL** explained we took the language directly from the language in statute for the economic impact statement. **SEN. HARGROVE** asked, could we do this now without this legislation? **REP. BERGSAGEL** replied, I don't know that you could get the agencies to provide this without a bill. I don't know that if you had fifteen members of either chamber request a family impact statement on the rules or regulations, it would be done. I don't think it would.

SEN. HARGROVE stated, I noticed there is a little departure from what we do with some of these other things, particularly a Fiscal Note. You have kind of cut the sponsor out and maybe that is by design. The only time the sponsor can request this is through the presiding officer, I assume the Speaker or the President of the Senate. What is the reasoning for that? **REP. BERGSAGEL** explained this language is used for a Fiscal Note. The Speaker or the President requests it when the bill is drafted. The sponsor does not specifically request it, although it seems like you are. It is listed this way in statute, so we kept it uniform.

SEN. HARGROVE said if I were interested in highlighting the problems with gambling, or wanted to get a lot press or make a particular point, would this legislation allow us to play politics? **REP. BERGSAGEL** stated, I think politics is played in lots of things. People introduce bills to make an issue or make a point, whether there is an impact statement or not.

SEN. HARGROVE stated, I learned a lot from all of the informational witnesses and there is a lot of subjectivity in there. I am not sure we could really expect an agency to ever bring up anything negative; hopefully they would. There is an assumption in here that everyone is nice. Hopefully that is right, but maybe there are some who are not. There is a concern

this is giving the Executive Branch bureaucracy a lot more impact on legislation than they now have. The Fiscal Note is fairly objective. Environmental Impact statements are gigantic things that are maybe a little more subjective than they should be, but

never-the-less, you can pretty much pin those things down. I know there has been a bill to keep the bureaucracy from lobbying, and that bill died. Is there a danger in watering down the legislature and strengthening the Executive in the legislative process? **REP. BERGSAGEL** replied that could happen with a Fiscal Note too. I have seen lots of Fiscal Notes that were not signed because the sponsor did not agree with it. Also, in the appropriation process, we reviewed the goals for the departments. **REP. COBB** was very interested in seeing the department goals were placed in **HB 2**, so we would know what goals the department had and we would put into place in the budget because if we are policy makers, our policy should drive the budget. Sometimes it is the other way around. If you are concerned the department has more authority in this bill, you would be amazed when you saw those goals. Sometimes we are not aware of how much impact they are having. We pass the budget and have not been really aware of what the goals are that are driving that budget. This is a way to say, I want to know what the impact is on the family. If you don't agree with that, you can either not sign the note or go back to the department and say, let's review this again, like you would with a Fiscal Note.

SEN. HARGROVE said, this has a lot of subjectivity and is fairly significant. The goals are admirable and I suspect I will support the bill. I think awareness, if nothing else, will happen from this and awareness is good. However, I believe there is some potential mischief in here concerning the separation of powers and I would like your comments on what you would think about a four year sunset on this to let us see how it works. If it does turn political, revisit it in two sessions. What would you think about that? **REP. BERGSAGEL** replied if we put this in place and had an opportunity for review, I think that might be appropriate procedure. When I visited with Chuck Hunter, he said of the questions listed here, question number three is okay and question number six is really pretty good for the way the department would be able to answer them. The others are subjective and he thought about some questions that might replace them. He said we could put it in place and see how it works for a couple of years. I really appreciate Chuck coming to me and having the integrity to say we have some concerns, and walk me through that.

SEN. WILSON said, assuming there is a bill next session to do away with no-fault divorce, would you walk me through how the family impact statement will come in and how it will be handled? Your agency would be the one to issue a family impact statement, correct? **Mr. Hunter** replied, I think it is likely it would come to the department.

SEN. WILSON stated, that would be one point of view of the issue and there would not be, under this bill, any counter point. **Mr. Hunter** said that is one of the things I think remains to be worked out. In a case like no-fault divorce, where there are clearly a couple of major perspectives, I might want to respond in a fashion. Similarly, the subjects we deal with are abuse and neglected children. Often there is a divergent view about what is good for the family as opposed to what might be good for this child. I might want to put in a note of some kind dealing with both sides of that question. I think this bill allows for that, although it is not specifically addressed to provide for that specific balance of perspective.

SEN. WILSON stated that is what I would like to see. Is there a way we could do that and make it specific in this bill, to have two opposing views? Would it work within the mechanics of this bill? **REP. BERGSAGEL** replied, I think it would be problematic. Any impact statement or Fiscal Note could be that way. You could have both views listed in the economic impact statement, but it would be very cumbersome.

{Tape : 1; Side : B; Approx. Time Counter : 51 - 63}

SEN. TESTER said I agree that the goals of this are admirable. I just don't know whose agenda is going to try to manipulate this. It has some potential for that. How do you anticipate family impact study being reported when we talk about educational funding? **REP. BERGSAGEL** answered, I am not sure that the Speaker or the President would probably request that. It has to be at request. A Fiscal Note would be appropriate for some bills and not for others. If it was requested by the Speaker or the President for a specific reason. If they wanted to know, for instance, how \$36 million dollars going into the pot for education would impact the family, that would have to be addressed by the Office of Public Instruction or assigned to an appropriate agency.

SEN. TESTER stated, I was under the assumption that 15 members of the body could request this, but it has to go through the Speaker or the President has to be included in that. **REP. BERGSAGEL**

explained it is done on the rules and regulations written in the legislation itself. It is similar to what we do in the process for an economic impact statement. There are two separate parts here. One is for the actual piece of legislation that passes through the process and the other is when the bill is actually having rules and regulations.

SEN. TESTER said let's say I have a problem with the bill and I want to kill it. I think this is an opportunity, with the family impact statement, where I could get some in-roads and some pretty good votes. I am a lowly member of the Senate and I want to get this family impact study. How do I do it? I know it speaks to it in the bill, but I have never seen it and I want to initiate one of these things. **REP. BERGSAGEL** said currently, if you want a Fiscal Note on a bill, you have to go through your leadership. It's the same process with this one. If they won't give you one, you're out of luck.

SEN. COLE asked, you seem to dwell a great deal on the "average family" in your testimony. I would like more information. I realize families change all the time, with children getting older. Why did you feel that was so important? **Mr. Lamson** replied, I think it is important. I am a pretty traditional person. I have been married to the same woman for 28 years. We have 3 boys. Both my wife and I worked throughout our careers because we needed to support our family. It is a little different than another average family that may have more or fewer children or no children at all, but they are still part of a family. Another type of family situation is adults who care for their elderly parents.

The Fiscal Impact speaks to the subjectivity of this particular issue because to say it has no impact assumes there are currently people within the agencies who could get assigned to make those kinds of assessments. Subjectivity will depend on the views of who writes the family impact. I have been advocating for years for what I thought was a family position, but we have different views on what we think nurtures and helps a family. It becomes more complicated by the notion of what is an "average" family at any given point in time. When we had very young children child care was very important to us, as well as medical leave aspects. Now that is less of a concern.

SEN. COLE said as far as I am concerned you are still talking about families, whether it's a family of elders or a family with young children. Whoever puts these together could put together

some impacts on varied family aspects. **Mr. Lamson** stated the point raised by **SEN. HARGROVE** about the notion of turning things over to the bureaucracy. The Executive will be saying this has the seal of good family legislation or not. We will debate it out on the Floor, but I think it is an interesting notion to turn that kind of power of bureaucracy over when there is no Fiscal Impact. We are not going to hire family specialists, necessarily, in these particular agencies.

SEN. COLE stated, I would like you to comment on whether you feel there is too much being given to agencies and comment a little bit on what you think families are. **REP. BERGSAGEL** said I think that is something this committee needs to ponder before they pass this bill. I wonder what happened when we passed economic impact statements. I wonder what happened when we passed environmental impact statements and if the debate was the same. What are we doing by turning over to the agencies the right to determine what is environmentally sound and what is not? That is a question you have to weigh. I wasn't here when those things were passed, but I think it is appropriate that we make a strong consideration for the family.

Closing by Sponsor:

REP. BERGSAGEL said thank you for a good hearing. It is my belief that the legislature should take a strong consideration for the family. The family is in desperate need of financial advocacy, of political advocacy, and advocacy on all levels. This was good enough for three presidents. It was an executive order in place for ten years. They were able to figure out how to make it work. I think we, as legislators, ought to make the family a priority. It is in a family where we learn about ourselves, how to care for others, and to honor the values of self-reliance, integrity, and compassion.

It is my firm recommendation that this issue should be placed at the top of the agenda. I think of the times on the House Floor when people choked up when they introduced their spouses. I think of all of the family pictures when their children went off for the first day of school. Some of you may think about the time you held your first grandchild and remember the emotions tied with that. Sometimes in the legislative process, all that gets removed, and we forget what we are doing really has significant impact on families.

HEARING ON HB 173

Sponsor: REP. ROGER SOMERVILLE, HD 78, KALISPELL

Proponents: Jim Greene, Disaster and Emergency, Department of
Military Affairs
Paul Spengler, Montana Disaster and Emergency
Association
Randy Mosley, Department of Natural Resources
Jane Jelinski, Montana Association of Counties

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 63 - 75}

REP. ROGER SOMERVILLE, HD 78, KALISPELL, stated the bill before you is to allow the State of Montana to enter into Interstate contacts for emergency mutual aide. This will provide an opportunity for the Governor to share the humanitarian assistance resources at the expense of the using state. This will also allow the use of the National Guard resources across state lines in all hazards response or humanitarian assistance type commissions. In normal everyday small disasters, most states have fire departments, police departments, medical support units, and National Guard assets immediately available. Large disasters are above and beyond what the communities can deal with. This bill allows the State of Montana to go into agreement with these adjacent states to look at those assets. We are a big state and it takes a tremendous effort to get assets across our state when they may be 30 miles across the border in North Dakota or in Idaho.

Currently, there is a system established to mobilize firefighters across the nation to fight the wildfires. That has been in existence for a long time. The firefighting community built this elaborate system through the United States Forest Service. Beyond this system, we have no other mobilization system where the state can rapidly obtain outside resources from adjacent states. The Federal Emergency and Management Agency, FEMA, can provide resources after a presidential declaration has been declared. The president has to get involved to start moving FEMA forces. Until that time, states have no capability of getting out of state resources for use within their state. This legislation will allow this to be changed and will not limit or modify any existing local government or existing state agency agreements with other states.

Proponents' Testimony:

Jim Greene, Administrator of Disaster and Emergency Services Division, Department of Military Affairs, the intent is to provide an interstate mutual aid assistance, under the control of the state. It provides the opportunity to share resources between the states by request of the Governors involved. It establishes a mechanism to request assistance, document liabilities and develop procedures to pay for and receive reimbursement for emergency resources across state lines. This bill does require two-thirds vote because of the liability clauses in it.

Essentially, this provides the same protection for a firefighter from North Dakota who may come into Montana as currently exists for Montana firefighters. It will be reciprocal across the state line for any resources we would have cross over into other states.

Montana currently has the ability to sign compacts with the other states and Canadian provinces. We have two all-hazard compacts in place with Idaho and Washington and we have memorandums of understanding with Alberta, British Columbia, and Saskatchewan. However, what is unique about this bill is it has been approved by Congress, there are 25 states already signed onto it, and it allows National Guard resources to go across state lines under the Governor's authority. Otherwise, they would have to be federalized if National Guard personnel crossed state lines. Currently, 25 states have approved this, including North Dakota and South Dakota. It is expected that up to 40 states will approve this within the next 18 months.

It was used extensively last summer for forest fires and hurricanes in the southeastern United States. As our population and hazards increase, the need to respond and recover from emergencies and disasters with resources from outside our state boundaries also increase. **REP. SOMERVILLE** mentioned the great distances in Montana. We try to find the closest and most economic resource to help a community. If a community is on one of our borders, it is often more economical to find a resource in an adjacent state than to bring them from across the state. We look at costs first and the closest qualified resource. We look at private ones first. We try to hire in-state or out-of-state before we start using government resources.

This legislation will not limit or modify existing local government or state agency agreements with other states. This is another tool we can use in case there is a major problem in our

state. Essentially, this compact will facilitate emergency planning, exercises, response, and recovery. Most of us know disasters transcend political boundaries. No single state has all the resources it might need. There has been some concern about federalizing emergency response and too much control given to federal agencies, such as FEMA. If you have these concerns, this interstate agreement should help alleviate some of those issues because this gives the state, through the Governor, more control and options if something really bad happens in our state.

It is important to remember that the better prepared you are, the less of a crisis and less chaos there is in a disaster. You can see in Central America, with hurricane Mitch and the earthquake in Colombia, how unprepared they were. The time to be working

out procedures and agreements is before the disaster, not in the middle of one.

Paul Spengler, Coordinator, Montana Disaster and Emergency Services Association, read **EXHIBIT (sts53a04)**.

Randy Mosley, Department of Natural Resources and Conservation (DNRC), said the Department is supportive of this bill. As has already been mentioned, DNRC is the state agency responsible for wild land fire suppression. During large fire seasons, when private, state, and federal resources are not available in larger wild land fires, we have to ask the National Guard for assistance. This bill provides a mechanism when the Montana National Guard does not have personnel or equipment available, for us to secure that equipment from other states. Therefore, we are interested in any option that will provide personnel and equipment for fighting wildfires. We urge your support.

Jane Jelinski, Assistant Director, Montana Association of Counties, stated I have personal experience for the need for out-of-state and out-of-county resources. I was County Commissioner in 1988 when Yellowstone Park was on fire. I spent virtually every weekend in the basement of the courthouse that fall with the emergency operations. We called on resources from all over the nation and absolutely needed them to assist with giving time and space for our local fire suppression resources. We urge you to support this bill.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 75 - 85}

SEN. TESTER said you had mentioned when you run out of resources you go to the National Guard. This would give you the opportunity to go to surrounding states. If this is passed, would the National Guard still be the first area you would try to get equipment from, and is there a certain protocol for who you ask for equipment? Would this alter that? **Mr. Mosley** replied, primarily we first go for equipment through the U.S. Forest Service channels. When we get a severe fire season, it can be that the personnel or equipment we normally get through our Forest Service channels are not available. When we find there are no private resources, state or federal, available within the state, we typically have an agreement with the Montana National Guard to provide equipment. Often it is trucks because we can't find private or other resources for that or even helicopters. It is when the National Guard may not have the type of equipment we can use that we would go to another state who may. This is the mechanism we would have to go through to get the National Guard

equipment from another state. We don't and cannot go through the existing one.

SEN. TESTER asked, is there a standardized method of payment or is it based on actual costs? **Mr. Greene** explained it is based on reimbursement basis. If we send people out-of-state they reimburse us for our actual costs, and if we bring people in, we reimburse the sending state the actual cost. As part of the ordering process, if North Dakota asked for resources, we would give them a rough estimate of the cost of those resources of the agencies that would voluntarily go there. We would continually update so they would have an idea of approximately how much it is costing them. **SEN. TESTER** asked if the same is true when they ask us for resources. **Mr. Greene** replied affirmatively.

SEN. HARGROVE asked, we have always done this, haven't we? Why do we have the legislation? **Mr. Greene** said we have done some with other states. However, the reimbursement process is not outlined ahead of time and these occur so frequently that you need to have the processes defined and agreed upon. Otherwise it builds in a half a day to several days delay. This is unique because it allows, through the governors, for the National Guard to cross the state line without being federalized. In the 1994 forest fires, we needed additional National Guard helicopters and they had to be federalized through the National Guard Bureau. There was a several day delay getting the helicopters here. Then we could not use the National Guard North Dakota helicopter pilots; we had to use pilots from Montana.

SEN. HARGROVE asked, is this a federal model? **Mr. Greene** explained it is the same model in all 25 states. This was generated by the southeastern states because of the hurricanes and so forth. They took it to Congress and it was approved.

SEN. COLE asked, Is this agreement in effect in North Dakota and South Dakota? **Mr. Greene** replied affirmatively. **SEN. COLE** asked what is the status on it in the other states that surround us? **Mr. Greene** said Idaho and Wyoming are studying it. We started studying it four years ago. It takes a couple of years to start to understand it. We expect the other surrounding states will start bringing this forward in the next year or two.

Closing by Sponsor:

REP. SOMERVILLE stated I want to point out a couple of things. I want to remind the committee that it does require two-thirds vote on the Floor of the Senate. As far as National Guard assets, this state is very poor in emergency response assets. We do not have any engineer forces in this state. The surrounding states

do. When you have disaster and emergency situations you need engineer forces, like bulldozers, dump trucks, bucket loaders, etc. We have active duty generator units that send stuff around the world whenever we have international disasters. We have the generative capability to power the city of Helena with one of the Army generator units located in North Carolina. They can put them on an aircraft and put them anyplace in the world. Those are the kinds of assets we will be moving. Some people are concerned we are going to move troops and weapons to try to take over a part of Montana, which we are not going to do. This bill is to move disaster and emergency assets under the control of the governors.

The other thing I want to point out that was discussed in the House, is liability. National Guard people in any disaster and emergency relief personnel are covered by Worker's Compensation in this state. If someone gets hurt working in Washington State, Montana's Worker's Compensation will cover it. If they were put in a situation where safety was thrown out the window and it was caused by the State of Washington and their procedures, the State of Washington could be sued and we could recover that Worker's Compensation cost from the State of Washington. I spent a few years in the Service and we played war games a lot. We made sure we had the assets available to do the mission. This is what we are trying to do with the disaster and relief people. They need to have a plan to accomplish a mission to solve the disaster. They have to have assets immediately identified in adjacent

states and locations so they can immediately get those assets to the emergency site. This is a good bill. **SEN. CRISMORE** will carry the bill.

HEARING ON HB 349

Sponsor: REP. BILL THOMAS, HD 93, HOBSON

Proponents: Vern Peterson, County Commissioner,

Opponents: None

Opening Statement by Sponsor:

REP. BILL THOMAS, HD 93, HOBSON, stated it has been said that brevity is the hallmark of distinction in legislation. If that would be true, if you would turn to the back page of this bill, in Line 14, we are changing \$25,000 to \$50,000.

{Tape : 2; Side : A; Approx. Time Counter : 85 - 92}

This requires, for other governmental entities, the legislative authority to waive the security requirements for building or construction projects that cost less than \$50,000. The 1997 legislature increased competitive advertised bidding requirements for construction repair or maintenance of any building, road, or bridge contracts to an excess of \$50,000. Apparently, it was an oversight that the bonding level was not changed accordingly at the same time. The present law reduces competition and some vendors are hesitant to enter a bid because of the work involved with the bid process. It does increase the cost of the services. The bidding level was raised because of the escalation of bidding and building costs. It has been deemed practical to do the same with the security requirement. This bill would make the bonding waiver level and bidding requirement harmonize.

Proponents' Testimony:

Vern Petersen, Fergus County Commissioner, said, we are in support of this bill. Currently, it is inconsistent with the \$25,000 and the \$50,000. We can waive it up to \$25,000 then we have to require a bond between \$25,000 and \$50,000. This would make it consistent and easy for new commissioners like me who are forgetful to remember if you bid it, you have to bond it. We have dependable contractors where it simply raises the price. We know they are going to get the work done. It does not take away

our ability to require a bond. It is a very good bill. I understand that it passed the house 99-0 and I challenged our Senator to see if he can improve on that percentage in the Senate. Thank you.

Art Klienjan, Blaine County Commissioner, stated, I agree with the statements made by **Vern Peterson**. We have probably been sliding under and not doing what we were supposed to be doing, but it needs to go up to the \$50,000 for the same reasons. We trust our contractors and it is a waste of time and money to not change it.

Jane Jelinski, Montana Association of Counties (MACO), stated the Association unanimously adopted the resolution asking for this bill and we support it.

Questions from Committee Members and Responses:

SEN. COLE asked, do you have a idea of the number of contracts you receive that this bill would change? **Mr. Petersen** replied, I do not have a number, but there are numerous, especially in our situation in the Road Department. We have a lot of crushing done and a lot of hauling done. A good share of those are under \$50,000, but certainly over \$25,000. **Jane Jelinski** said we got some figures for **REP. THOMAS** for three counties; Lewis and Clark, Cascade, and Missoula. In all three counties approximately half of the construction projects were under \$25,000.

Closing by Sponsor:

REP. THOMAS stated, I asked that same question and it is a difficult number to get, but I thought that would be good information to have. It is nice to carry a piece of legislation where it is a win-win, no matter how you look at it. It helps the small contractor, it helps the public, and hopefully the bids can come in without that expense attached to them. It saves time and hassle on some of these smaller projects. Thank you. **SEN. HERTLE** will carry this bill.

HEARING ON HB 494

Sponsor: **REP. CAROLYN SQUIRES, HD 68, MISSOULA**

Proponents: **John McEwen, Administrator, State Personnel
Division, Department of Administration
Tom Schneider, Montana Public Employees'
Association**

**Dan Anderson, Department of Public Health and
Human Services**

**Mike O'Connor, Executive Director, Publica
Employees' Retirement System**

Opponents: None

Opening Statement by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 92 - 103}

REP. CAROLYN SQUIRES, HD 68, MISSOULA, said the basic content of the bill is in Line 20. This deals with the State Employees' Protection Act, which has been on the books for approximately eight years. We have fine tuned this over and over again and the last piece that we are bringing to you for your consideration is to take the sunset off the retirement portion of the bill.

There are two parts of this bill, then the State Employees' Protection Act. If an employee is RIF'd (Reduction In Force) through no fault of his own, through downsizing or privatization of state government, we as the employer offer some benefits to these employees. These employees on the one side are offered free training, relocation, travel adjustments, etc. They are also kept on a registry for one year and notified through a mailing process of any other state jobs available to them in State Government. The main office is at the Helena Job Service. Therefore, they coordinate those activities with all RIF'd employees. If the employees choose to and find themselves in the position where they can retire, the agency will then offer them a three year option as far as retirement is concerned. The reason we did not change this last legislative session and take off the sunset was because of the Guaranteed Annual Benefit Adjustment, GABA. As you all know, GABA increased the cost of retirement; therefore, we left it on. Now we are asking that you take it off. The employees are eligible for their retirement at the regular rate, but if they only buy 1 and 3 quarters of years, based on GABA, at the GABA rate, we are willing to abide by that, accept that responsibility, and others will address that issue. This is a bill that helps those employees who find themselves RIF'd through no fault of their own through privatization and downsizing.

We used this at the Galen closure where we had over one hundred employees. That went down about four years ago. We are looking at other entities in the state that used it with the United Food and Commercial workers when there was downsizing with the liquor stores. Many people used it for retraining and relocation or they reapplied for jobs in State Government. Others chose

retirement. That is why I bring this bill forward. This is eight years of work. Taking off the sunset will be the completion of that and I hope that you will provide me that courtesy.

Proponents' Testimony:

John McEwen, Administrator, State Personnel Division, Department of Administration, read **EXHIBIT(sts53a05)**.

Tom Schneider, Montana Public Employees' Association, said we have been involved with this particular piece of legislation from its inception. I would like to point out to the committee that we really are only buying about a year and a half of credit. The employer pays the employee-employer contribution, which is 13.8 percent, for each of the three years, if the employee is three year eligible. The cost is about 28 to 29 percent for each one of those years, so you can divide the 13.8 percent into 28 percent and you can see what you are buying, which is basically about half. It is a good bill and we would like to see it made permanent. It plays a good role in saving agencies money when people are retirement eligible. Thank you.

Dan Anderson, Administrator of the Addictive and Mental Disorders Division, Department of Public Health and Human Services, stated our department supports this bill. We are looking at Montana State Hospital having a large reduction of force over the next couple of years. Perhaps as many as 75 to 100 employees will be laid off. Many of these are longer term employees who have put in a lot of service to the State of Montana. I can think of no more challenging position in State Government than working at Montana State Hospital, providing patient care. This is an important bill to provide transition to some of those employees as they leave state employment.

Mike O'Connor, Executive Director, Public Employees' Retirement Systems, said the Board supports this legislation. It is a good government bill. We administer this section and it gives an employee who is laid off the option of being able to receive a portion of one for five service if they are retirement eligible. The last few years we had 12 individuals who took advantage of this situation and the employer paid that portion of that service. It is not good for everybody who is laid off, but it is good for the ones who are retirement eligible. We support this legislation.

Questions from Committee Members and Responses:

SEN. HARGROVE when you say "RIF'd", what do you mean? **Mr. Schneider** replied we are talking about people who actually get a pink slip saying you are being laid off. **SEN. HARGROVE** asked, but not for cause? **Mr. Schneider** answered no, this would be a downsize for lack of money or elimination of the programs. These are people who have done nothing wrong on the job; their job is simply not going to exist any longer.

SEN. HARGROVE asked, what kind of programs do we have for placing these people in other parts of state government, or retraining or cross-training? **Mr. Schneider** explained, that is the other half that does not appear in this bill. If they are not retirement eligible or they do not choose to retire, there is a position in the Department of Labor that coordinates a register of RIF'd employees. Those people are offered retraining and positions they are qualified for in other state agencies.

SEN. WELLS asked, why did we have the July 1, 1999 date in there before? **REP. SQUIRES** replied we needed to sunset it last time and take it off this time because of GABA. We didn't know what the cost of GABA would be at that particular time. The bill went through before GABA went through. I agreed to put the sunset on it from July 1, 1997 to July 1, 1999, come back this session and ask you to take the sunset off.

Closing by Sponsor:

REP. SQUIRES stated this is a very important bill for state employees as they find themselves losing employment through no fault of their own. There are two sections to this. For those employees who can continue on with State Government, we have a focal point where they can register and apply. They can receive job notices and postings from the State Government. This will also apply at a Job Service in your area. Any state employee in your area can apply to this registry and be placed. They can also apply for the retirement portion of this bill. Being a good employer that we are, I am hoping that you will pass this bill and let me complete my task. **SEN. BECK** would like to carry this.

EXECUTIVE ACTION ON SJ 10

{Tape : 2; Side : A; Approx. Time Counter : 103 - 114}

SEN. COLE announced even though we had a joint hearing with the House State Administration Committee, we need to take executive action and send this over to the House.

SEN. HARGROVE stated a few people said Senator Mansfield will not have anything to do with this if it does not somehow include his wife. I don't know if that was a request for us to include that in this or not.

SEN. COLE said I think it would be appropriate to enter his wife in the resolution before it is passed out of committee.

SEN. WILSON stated I think we will have to put her name in this as well. We don't necessarily need to have another statue, but an inscription with her included would be appropriate.

SEN. COLE said at this time, I don't think we need to get that explicit in this resolution, but I think we need to put an amendment on this recognizing her name. As time goes on, the amount of money coming in is going to determine what will be included in the memorial.

EXECUTIVE ACTION ON HB 173

Motion/Vote: **SEN. WILSON** moved that **HB 173 BE CONCURRED IN.**
Motion carried 5-0.

EXECUTIVE ACTION ON HB 182

David Niss explained this is the bill **Mary Bryson, Department of Revenue**, appeared on. She had a problem with two sections dealing with the Unclaimed Property Act. She submitted some written amendments to the committee, but no one has asked me to prepare those.

SEN. COLE said I will be glad to talk with both of them and let them know if they do not come up with an agreement, we will probably end up letting the bill die or putting in those amendments. We need to see if we can come to some sort of agreement between the two of them. From my discussions with the Department of Revenue (DOR), they want to make sure they know what the assets are in here. I don't think they are totally interested in taking over.

Mr. Niss stated they are claiming the procedures in effect under the Uniform Unclaimed Property Act provide a mechanism for

keeping the retirement amounts in play by their department. They already have a statutory requirement to continue to locate the owners of the money. In response to that, the Retirement Division says these are retirement assets, and those assets now have a Constitutional protection. Therefore, we cannot turn those over to DOR.

SEN. HARGROVE said I have a note written down saying it would be satisfactory if the Retirement Division keeps the money and the DOR would continue to work the list to find the people, because they have the mechanism to do that. Is that what you understood, and if so, does this amendment do that?

SEN. COLE stated the Director had indicated to me that procedure was satisfactory.

SEN. TESTER said I am not sure these amendments do that.

Mr. Niss stated the amendments may go further than that. The Retirement Board wants the database of last known addresses which DOR has, because there are criminal penalties involved for failing to pay taxes due to the state. Therefore, DOR makes a diligent effort to keep track of people who may be retirees. The issue is whether the Public Employees' Retirement Board should have access to those addresses without turning over the money as the price of knowing where those retirees now reside.

SEN. TESTER said I would like to find out if there is somehow we could ensure the Retirement Board keeps the money and let the DOR handle the list. That seems to be more workable, but I would like to have the Retirement Board's point of view.

SEN. COLE stated David Niss and I can see if we can work out some amendments that might be satisfactory to both of them.

EXECUTIVE ACTION ON HB 349

Motion/Vote: **SEN. WILSON** moved that **HB 349 BE CONCURRED IN.**
Motion carried 5-0.

EXECUTIVE ACTION ON HB 494

{Tape : 2; Side : A; Approx. Time Counter : 114 - 125}

Motion/Vote: SEN. WILSON moved that HB 494 BE CONCURRED IN.
Motion carried 5-0.

EXECUTIVE ACTION ON HB 625

SEN. WILSON asked is there any specific reason for holding this bill? I don't have a problem with it.

SEN. COLE said I don't think it is going to do that much. It is similar to what others do. I thought I heard some problems with people who wanted to talk about it more.

SEN. WILSON stated I think if they had a big problem with it, they should have been opponents to it. The only opposition was informational. It does not give me a big alert unless they come in and oppose it.

SEN. HARGROVE said I would like to propose a sunset on it so it can go through an entire session and be considered in the following session. We have these bills that keep coming up to limit lobbying and things to make the legislature be more independent. I suspect it will not amount to much at all, but I would be more comfortable with a sunset.

Motion: SEN. HARGROVE moved that HB 625 BE AMENDED.

SEN. HARGROVE added I would like to let it go through one complete cycle and be reconsidered in the legislative session in 2003.

SEN. WILSON said I can support that.

SEN. TESTER asked, is this going to sunset between the next legislative session and the session after that?

SEN. WILSON explained it is effective on a passage and approval and will be revisited in 2003.

SEN. TESTER said if it is July 1, 2003, it will go through two sessions.

SEN. COLE stated I think we would want the date to be extended, so we can consider it when we are in session again. If it was something good, we would have the opportunity to take the sunset off. I would hate to see it sunset when we were not in session.

SEN. HARGROVE said we do not want to have a gap. We want to look at it in 2003.

SEN. WELLS stated if you knew that it was going to terminate in July of 2003, you would look at in the session of 2003 to decide whether to let it terminate or not.

SEN. HARGROVE asked is there a procedure to let legislators know when bills with sunsets will be terminated and need to be voted on?

Mr. Niss explained there is not. Sunsets or termination provisions are considered on a case by case basis and done individually. It depends on how many legislative sessions you want to have to consider the issue of whether or not to continue it. If you only want one, it would be appropriate to terminate it July 1st or October 1st of the year of the next session.

SEN. TESTER stated I don't have a problem with it. If it is a total fiasco, we move the sunset up. If it works, it goes through the complete cycle.

SEN. WELLS said I think we should give it some time. If we terminate it in the summer of 2001, next session is the only time your going to even apply it. By the end of session you are not going to know if it worked or not, so you won't be able to extend it. I think it ought to go to 2003, four years from this summer.

SEN. COLE stated those amendments will be prepared and then we will take action on them.

Discussion

Mr. Niss said we have a number of bills we did not hear because they are tied to CI-75. Those being **HB 432**, **HB 342**, **HB 334**, and I believe **SB 228** and **SB 256**. The committee was ready to act but **SEN. HARGROVE** raised the issue of whether the leadership would want these to die in committee or whether some affirmative action, like tabling the bill, should be taken. **SEN. HARGROVE** was going to check with the leadership and get back to us.

SEN. HARGROVE stated I did check with leadership and they said it is fine with letting them die.

SEN. COLE said apparently they are doing that with some of the other committees as well.

ADJOURNMENT

Adjournment: 12:05 P.M.

SEN. MACK COLE, Chairman

KERI BURKHARDT, Secretary

MC/KB

EXHIBIT (sts53aad)